



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 16, 2017

Ms. Jo Ann Pate
Assistant City Attorney
City of Fort Worth
200 Texas Street, Third Floor
Fort Worth, Texas 76102

OR2017-18679

Dear Ms. Pate:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 671172 (Req. No. W062185).

The Fort Worth Police Department (the "department") received a request for information pertaining to disciplinary actions involving a named officer. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You state the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-05896 (2017). In that ruling, we determined the City of Fort Worth (1) need not release the submitted body camera videos at issue as the requestors did not properly request the body worn camera videos pursuant to chapter 1701 of the Occupations Code; (2) must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; (3) must withhold the information pertaining to report number 16-120090 from all requestors, other than the legal representative of the parents of the juvenile offender at issue, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code; (4) must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code; and (5) may withhold the remaining responsive information under section 552.108(a)(1) of the Government Code on behalf of the Tarrant County

Criminal District Attorney's Office. You inform us there was an unauthorized release of the submitted information, which was previously withheld under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. We note the Act does not permit selective disclosure of information to the public. *See* Gov't Code §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). Information that has been voluntarily released to a member of the public may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988); *but see* Open Records Decision Nos. 579 (1990) (exchange of information among litigants in "informal" discovery is not "voluntary" release of information for purposes of statutory predecessor to Gov't Code § 552.007), 454 at 2 (1986) (governmental body that disclosed information because it reasonably concluded that it had constitutional obligation to do so could still invoke statutory predecessor to Gov't Code § 552.108).

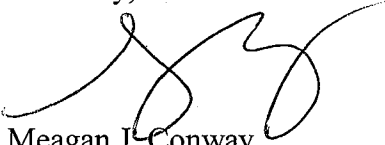
You state the release of the information at issue was unauthorized and against the wishes and policy of the department. You state the department investigated this unauthorized release. We note a governmental body is not precluded from invoking an exception to further public disclosure of information that has been released on a limited basis through no official action and against the wishes and policy of the governmental body. *See* Open Records Decision No. 376 at 2 (1983); *see also* Open Records Decision No. 387 at 3 (1983) (information that is not voluntarily released by a governmental body, but nevertheless comes into another party's possession, is not henceforth automatically available to everyone). Based on your representations, we find there was no voluntary release of information in this instance. Therefore, we have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the department must rely on Open Records Letter No. 2017-05896 as a previous determination and withhold the requested information in accordance with that ruling.¹ *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹As our ruling is dispositive, we need not consider your argument against disclosure, except to note that regardless of whether the department released any information for purposes of section 552.007 of the Government Code, section 552.101 of the Government Code makes information confidential by law for purposes of section 552.007. *See* Gov't Code § 552.101; *see also* Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/sb

Ref: ID# 671172

Enc. Submitted documents

c: Requestor
(w/o enclosures)